IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 25 to 32 of 1996

in

SPECIAL CIVIL APPLICATION Nos 5927, 8243, 5966,
9350, 9349, 2914, 9506 and 7369 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MUNICIPAL CORPORATION OF THE CITY OF AHMEDABAD

Versus

SHANTABEN WD/O LATE BHULABHAI JIVABHAI

Appearance:

1. LETTERS PATENT APPEAL No. 25 of 1996

MR PRASHANT G DESAI for Appellant No.

MR PR ABICHANDANI AGP for Respondent No. 1

RULE SERVED for Respondent No. 2-8

MR RR MARSHAL for Respondent No. 9-AUDA

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 06/08/2004

COMMON ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. All these appeals are disposed of by this common judgment as they are arising out of the common judgment and order dated 6.12.1995 passed by learned Single Judge of this court (Coram : J.N.Bhatt, J.) in Special Civil Application No.9506/95 and allied matters.

#. Whether reservation of the lands, as notified in the development plan / scheme of 1983 for Ahmedabad Municipal Corporation area would lapse in view of the provisions of Section 20 of of the Gujarat Town Planning and Urban Development Act, 1976? was the main question in the group of writ petitions decided by the learned Single Judge of this court by his common judgment and order dated 6.12.95.

#. The appellant-Ahmedabad Municipal Corporation has prepared development plan / scheme in light of the provisions of Bombay Town Planning Act under which the lands of the respondent-Original petitioner were placed under reservation and the development plan for the city of Ahmedabad was notified on 15.1.1976 under the provisions of Bombay Town Planning Act, 1954. The Gujarat Town Planning and Urban Development Act, 1976 came into force and under the said draft plan the lands of the original-petitioner were shown to be reserved for public purpose and consequently a notification was issued under Section 17 of the Act. The State of Gujarat had sanctioned the final development plan with certain modification and variation on 12.8.1983 which came into force with effect from 16.9.1983. As per the provisions of Section 20 of the Act, the Development plan would remain operative for a period of 10 years, which was to expire on 15.9.1993.

#. Notice under Section 20(2) of the Act was served to the original respondent in the writ petitions calling upon them either to acquire disputed lands or to take over the same by way of private negotiations. But, nothing was done by the authorities. Therefore, on the expiry of six months period of service that notice under Section 20(2) of the Act, the original-petitioners had

filed the writ petitions before this court and prayed for the declaration that reservation of the disputed lands of the petitioners for the public purpose has lapsed on expiry of period of six months from the date of notice to the respondents by them. Some of the petitioners had also challenged legality and validity of the rejection of development plan of Ahmedabad Municipal Corporation on the ground that their lands got released from designation and, therefore, they were entitled to make development of their own lands.

#. Relying upon the Division Bench judgment of this court delivered on 1.8.1995 in Letters Patent Appeal No.156 of 1995 and allied appeals, the learned Single Judge of this court held that the designation of the lands of the petitioners for specified user had lapsed after expiry of six months from the service of notice of the land owners calling upon the statutory authorities to acquire the lands. Accordingly, all the writ petitions were allowed. This common judgment and order dated 6.12.1995 passed by the learned Single Judge of this court (Coram : J.N.Bhatt, J.) is challenged in all these appeals by the appellant-Corporation.

#. It appears from the order sheet of these appeals that though the appeals were filed in the year 1996, the appellant-Corporation was not vigilant to move these appeals early with Civil Applications for interim orders. In fact, no Civil Applications are filed in them. Be that as it may. It appears that these appeals were placed before the Division Bench of this court only on 5.8.1998 for admission and after hearing learned counsel Mr.Desai for the appellant-Corporation, all these appeals were admitted and ordered to be heard along with Letters Patent Appeal No.1059 of 1995. Since then these appeals are pending before this court for final disposal. During the pendency and final disposal of these appeals, Ahmedabad Urban Development Authority has introduced new plan in 2000 and, therefore, by efflux of time and the subsequent events taking place in all these years, these appeals would not survive except for the academic purpose.

According to Mr.Desai, law laid down by the learned Single Judge of this court while allowing all the writ petitions, on the basis of the judgment of the Division Bench of this court, is no more a good law in view of the judgment of the Hon'ble Supreme Court in case of Ahmedabad Urban Development Authority vs. Manilal Gordhandas reported in AIR 1996 SC 2804. In view of this order dated 6.12.1995 in Special Civil Application

Nos.9506/95 and allied matters by the learned Single Judge of this court (Coram : J.N.Bhatt, J.) is no more a good law. Nothing more is required to be done in the present appeals in view of the subsequent events taking place in the matter. Accordingly, all these appeals are disposed of. No order as to costs.

(B.J.Shethna, J.)

(M.C.Patel, J.)

*Pvv